

PSJ17 Exh 112

Highly Confidential - Subject to Further Confidentiality Review

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

IN RE: NATIONAL :HON. DAN A. POLSTER
PRESCRIPTION OPIATE :
LITIGATION :MDL NO. 2804
:
APPLIES TO ALL CASES :NO.
:1:17-MD-2804

- HIGHLY CONFIDENTIAL -

SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

- - -

December 14, 2018

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Videotaped sworn deposition of
COLLEEN MCGINN, taken pursuant to
notice, was held at GOLKOW LITIGATION
SERVICES, One Liberty Place, 1650 Market
Street, Philadelphia, Pennsylvania,
beginning at 9:39 a.m., on the above
date, before Margaret M. Reihl, a
Registered Professional Reporter,
Certified Shorthand Reporter, Certified
Realtime Reporter, and Notary Public.

- - -

GOLKOW LITIGATION SERVICES
877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

1 A P P E A R A N C E S:

2

WAGSTAFF & CARTMELL LLP

3 BY: THOMAS CARTMELL, ESQUIRE

KATHLEEN E. HUDNALL, ESQUIRE

4 4740 Grand Avenue, Suite 300

Kansas City, Missouri 64112

5 (816) 701-1100

tcartmell@wcllp.com

6 khudnall@wcllp.com

Representing the Plaintiffs

7

8

BRANSTETTER, STRANCH & JENNINGS, PLLC

9 BY: BENJAMIN A. GASTEL, ESQUIRE

The Freedom Center

10 223 Rosa L. Parks Avenue

Suite 200

11 Nashville, Tennessee 37203

(615) 254-8801

12 beng@bsjfirm.com

Representing the Tennessee Plaintiffs

13

14

SKIKOS, CRAWFORD, SKIKOS & JOSEPH LLP

15 BY: MARK G. CRAWFORD, ESQUIRE

UZAIR SALEEM, ESQUIRE

16 One Sansome Street, Suite 2830

San Francisco, California 94104

17 (425) 546-7300

mcrawford@skikos.com

18 usaleem@skikos.com

Representing the MDL Plaintiffs

19

20

21

22

23

24

1 A P P E A R A N C E S: (cont'd)

2

3 MORGAN LEWIS & BOCKIUS LLP

BY: NATHAN J. ANDRISANI, ESQUIRE

4 ADAM HAMMOUD, ESQUIRE

1701 Market Street

5 Philadelphia, Pennsylvania 19103-2921

(215) 963-5362

6 nandrisani@morganlewis.com

adam.hammoud@morganlewis.com

7 Representing the Defendant Teva

8

REED SMITH LLP

9 BY: ANNE E. ROLLINS, ESQUIRE

Three Logan Square

10 1717 Arch Street

Philadelphia, Pennsylvania 19103

11 (215) 851-8262

arollins@reedsmith.com

12 Representing the Defendant,
AmerisourceBergen Drug Corp.

13

14 PIETRAGALLO GORDON ALFANO

BOSICK & RASPANTI LLP

15 BY: LESLIE A. MARIOTTI, ESQUIRE

1818 Market Street

16 Suite 3402

Philadelphia, Pennsylvania 19103

17 (215) 988-1451

lam@pietragallo.com

18 Cardinal Health

19

20

21 ALSO PRESENT: Bill Geigert, VIDEOGRAPHER

22

23

24

1 TELEPHONIC APPEARANCES:

2

3 ARNOLD & PORTER KAYE SCHOLER, LLP
BY: TIFFANY IKEDA, ESQUIRE
4 777 South Figueroa Street, 44th Floor
Los Angeles, California 90017-5844
5 (213) 243-4160
tiffany.ikeda@arnoldporter.com
6 Representing the Defendants,
Endo Health Solutions, Inc.,
7 Endo Pharmaceuticals, Inc.,
Par Pharmaceutical, Inc.,
8 Par Pharmaceutical Companies, Inc.
(FKA Par Pharmaceutical Holdings, Inc.)

9

10 JONES DAY
BY: LOUIS P. GABEL, ESQUIRE
11 150 West Jefferson Avenue
Suite 2100
12 Detroit, Michigan 48226
(313) 733-3939
13 lpgabel@jonesday.com
Representing the Defendant, Walmart

14

15 COVINGTON & BURLING LLP
BY: GABRIEL FULMER, ESQUIRE
16 One CityCenter
850 Tenth Street, NW
17 Washington, DC 20001-4956
(202) 662-5769
18 gfulmer@cov.com
Representing the Defendant,
19 McKesson Corporation

20

21 ROPES & GRAY LLP
BY: ELIZABETH TOLON, LAW CLERK
1211 Avenue of the Americas
22 New York, New York 10036-8704
(212) 596-9374
23 elizabeth.tolon@ropesgray.com
Representing the Defendant,
24 Mallinckrodt

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1 TELEPHONIC APPEARANCES (CONT'D)

2

MORGAN & MORGAN

3 BY: JAMES D. YOUNG, ESQUIRE

76 South Laura Street, Suite 1100

4 Jacksonville, Florida 32202

(904) 398-2722

5 Representing Plaintiffs

6

7

8

9

-- --

10

11

12

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15

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1 THE WITNESS: We make a lot of
2 opioid-containing products.

3 BY MR. CARTMELL:

4 Q. And if you look below, there is
5 "Teva products include" paragraph, and that's a
6 list of all of the opioids that Teva is actually
7 manufacturing and selling as of this time.

8 Do you see that?

9 MR. ANDRISANI: Objection, form.

10 THE WITNESS: Yes.

11 BY MR. CARTMELL:

12 Q. It's fair to say that's dozens of
13 opioid-containing products?

14 A. Dozens of different products, but
15 some of the same products, yes, different
16 formulations of the same product.

17 Q. All opioid-containing products,
18 correct?

19 A. Correct.

20 Q. We've talked a little bit about
21 the law that applies to Teva related to
22 manufacturing and selling opioids, but I want to
23 talk in a little more detail and hand you
24 Exhibit 9.

1 (Document marked for
2 identification as McGinn Deposition
3 Exhibit No. 9.)

4 BY MR. CARTMELL:

5 Q. I'm handing you two copies of
6 Exhibit 9, one for you and one for your counsel.
7 This is produced from Teva's files in this
8 litigation, and I will represent to you that
9 this was information that came from your file.

10 You'll see from the e-mail on the
11 first page of this document, there's an e-mail
12 from LeighAnn Tulleson dated June 15, 2012 to
13 you and many others, and the subject is "DEA
14 Suspicious Order Monitoring Program."

15 Do you see that?

16 A. Yes.

17 Q. It states, "we have scheduled a
18 meeting to discuss the DEA suspicious order
19 monitoring program and its impact to Teva and
20 our customers."

21 It states, "This launch meeting
22 is critical to the overall understanding of the
23 issues and will require each of the parties
24 listed on this memo to attend."

1 You see that?

2 A. Yes.

3 Q. Okay. So it looks like as of
4 June of 2012, which is not long after you
5 started at Teva, is that fair, within a year?

6 A. Yes.

7 Q. There was going to be a launch
8 meeting to discuss the suspicious order
9 monitoring program?

10 A. That's what it looks like.

11 Q. Okay. Attached to this e-mail
12 that you received is a series of letters from
13 the U.S. Department of Justice Drug Enforcement
14 Administration; is that right?

15 A. Yes.

16 Q. And I want to talk to you
17 specifically about the one that is actually a
18 crummy copy, but it's dated February 7, 2007.

19 Do you see that?

20 A. That's a bad copy for sure.

21 Q. Well, we got this from the files,
22 and, unfortunately, we were looking for a better
23 copy, but we couldn't find one, so we'll have to
24 make our way through this, if you don't mind.

1 But I want to go through this,
2 and this is a letter, I take it, that you had
3 seen prior to 2012; is that right?

4 A. It's hard to see where -- I
5 assume that I had.

6 Q. Well, am I right that there are a
7 series of letters that were sent to
8 manufacturers and distributors of
9 opioid-containing products from a man named
10 Joseph Rannizzisi?

11 A. Yes.

12 Q. Okay. And I know that you are
13 familiar with Mr. Rannizzisi, correct?

14 A. Yes.

15 Q. You have had dealings with him,
16 pretty extensive dealings with him in the past;
17 is that fair?

18 A. Not personally. I may have
19 talked to him once or twice.

20 Q. At any rate, these letters, the
21 series of letters that are attached, and I think
22 there's three, are commonly known as the
23 Rannizzisi letters, correct?

24 A. I had not called them that. I

1 had not heard that.

2 Q. What do you call them?

3 A. Distributor letters.

4 Q. Okay. And I take it that you
5 were familiar with these letters even back at
6 Cephalon, before you started at Teva?

7 A. Yes.

8 Q. Okay. And let's go through this
9 February 7, 2007 letter, you see the date, and
10 you can see that this is a letter from the Drug
11 Enforcement Administration out of Washington,
12 DC.

13 It states, Dear Sir or Madam,
14 this letter is being sent to every commercial
15 entity in the United States registered with the
16 Drug Enforcement Administration to distribute
17 controlled substances. The purpose of this
18 letter is to reiterate the responsibilities of
19 controlled substance distributors in view of the
20 prescription drug abuse problem in our -- our
21 nation currently faces.

22 Do you see that?

23 A. Yes.

24 Q. Okay. So would you agree with me

1 that that was the purpose of these letters was
2 to put or to reiterate to manufacturers of
3 opioid drugs and other controlled substances and
4 distributors of these drugs of their
5 responsibilities related to the law that applies
6 to manufacturing and selling controlled
7 substances?

8 MR. ANDRISANI: Objection, form.

9 THE WITNESS: Yes.

10 BY MR. CARTMELL:

11 Q. And it looks like the DEA was
12 reiterating the law that applied to
13 manufacturers and distributors of opioids at
14 this time because there was an emerging
15 controlled substance prescription drug problem,
16 correct?

17 MR. ANDRISANI: Object to the
18 form.

19 THE WITNESS: I assume that's
20 why.

21 BY MR. CARTMELL:

22 Q. And this was back in 2007, right?

23 A. Yes.

24 Q. It states, "Background, as each

1 of you is undoubtedly aware, the abuse
2 (nonmedical use) of controlled prescription
3 drugs is a serious and growing health problem in
4 this country. DEA has an obligation to combat
5 this problem, as one of the agency's core
6 functions is to prevent the diversion of
7 controlled substances into illicit channels."

8 Do you see that?

9 A. Yes.

10 Q. What does that mean, "illicit
11 channels"?

12 MR. ANDRISANI: Object to form.

13 THE WITNESS: I'm going to assume
14 that he means that it ends up anywhere
15 than where it was intended to go.

16 BY MR. CARTMELL:

17 Q. Okay. "Congress assigned DEA to
18 carry out this function through enforcement of
19 the Controlled Substances Act and DEA
20 regulations that implement the Act."

21 So does that mean that actually
22 the Drug Enforcement Administration is the
23 agency that Congress has given the power to
24 enforce the law related to the sale and

1 manufacture of controlled substances?

2 A. Yes.

3 MR. ANDRISANI: Objection, form.

4 BY MR. CARTMELL:

5 Q. Including opioid-containing

6 products?

7 MR. ANDRISANI: Objection, form.

8 THE WITNESS: Yes.

9 BY MR. CARTMELL:

10 Q. The Controlled Substances Act was

11 designed by Congress to combat diversion by

12 providing for a closed system of drug

13 distribution.

14 What does it mean to be a closed

15 system?

16 A. The way it's been --

17 MR. ANDRISANI: Object to form.

18 THE WITNESS: -- described to us

19 is that controlled substances would only

20 be shipped to DEA registrants.

21 BY MR. CARTMELL:

22 Q. And then it says further down,

23 "If the closed system is to function properly as

24 Congress envisioned, distributors must be

1 vigilant in deciding whether a prospective
2 customer can be trusted to deliver controlled
3 substances only for lawful purposes. This
4 responsibility is critical, as Congress has
5 expressly declared that the illegal distribution
6 of controlled substances has a substantial and
7 detrimental effect on the health and general
8 welfare of the American people."

9 Do you see that?

10 A. Yes.

11 Q. And do you agree with that?

12 MR. ANDRISANI: Objection to
13 form.

14 THE WITNESS: Yes.

15 BY MR. CARTMELL:

16 Q. Now, it then talks about actually
17 the law that manufacturers and distributors are
18 bound by related to the sale and manufacture of
19 controlled substances, correct?

20 MR. ANDRISANI: Objection, form.

21 THE WITNESS: I'm sorry.

22 Could -- I missed it. Sorry, I was
23 reading.

24 BY MR. CARTMELL:

1 Q. Sorry I interrupted you. Were
2 you done?

3 A. I'm done. I'm sorry.

4 Q. We'll talk about the rest of the
5 letter in some detail, but I want to -- I was
6 just pointing out that the rest of the letter
7 actually talks about the regulations and the law
8 that applies and that the DEA is enforcing,
9 correct?

10 A. Yes.

11 Q. And one of the things, just so
12 it's clear for the jury, that is important to
13 know is that companies like Teva, for example,
14 because they sell and manufacture
15 opioid-containing products, they have to
16 register with the DEA to be able to do that; is
17 that right?

18 A. Yes.

19 Q. And is it true that they become
20 known as a registrant, for example, is that
21 referred to?

22 A. Yes.

23 Q. Okay. And that registration, is
24 it true, provides, for example, Teva a license

1 that allows them through their multiple
2 facilities to go ahead and distribute those
3 opioids?

4 A. Yes.

5 Q. Okay. And so, for example, if
6 Teva had its license suspended or pulled from
7 the DEA to sell or manufacture opioid-containing
8 products, then they would no longer be able to
9 sell those; is that fair?

10 A. Yeah, they would not be able
11 to -- not just sell but they would not be able
12 to transfer drug anywhere.

13 Q. If you go to the second page in
14 the third paragraph it states, the statutory
15 factors DEA must consider in deciding whether to
16 revokes a distributor's registration are
17 contained in 21 U.S.C. 823(e).

18 Do you see that?

19 A. Yes.

20 Q. So when you talk about statutes
21 and all that, that's legal mumbo-jumbo, that's
22 the actual -- that's the law, right?

23 MR. ANDRISANI: Objection, form.

24 THE WITNESS: U.S. Code.

1 BY MR. CARTMELL:

2 Q. Go ahead.

3 A. It's U.S. code.

4 Q. Okay. "Listed first among these
5 factors is the duty of distributors to maintain
6 effective controls against diversion of
7 controlled substances into other than legitimate
8 medical, scientific and industrial channels."

9 Do you see that?

10 A. Yes.

11 Q. And so that just means that every
12 manufacturer or distributor of opioid-containing
13 products and other controlled substances, they
14 have to make sure that they actually have
15 effective controls against diversion of those
16 drugs in place, correct?

17 MR. ANDRISANI: Objection, form.

18 THE WITNESS: Yes.

19 BY MR. CARTMELL:

20 Q. For example, if Teva had
21 ineffective controls that weren't working, then
22 that would not be compliant with the law,
23 correct?

24 MR. ANDRISANI: Objection, form.

1 THE WITNESS: Yes.

2 BY MR. CARTMELL:

3 Q. It states, In addition,
4 distributors must comply with appropriate state
5 and local law. Congress also gave DEA authority
6 under this provision to revoke a registration
7 based on the distributor's past experience in
8 the distribution of controlled substances and
9 based on such other factors as may be relevant.

10 Do you see that?

11 "Relevant to and consistent with
12 the public health and safety."

13 Do you see that?

14 A. Yes.

15 Q. Okay. Now, I want to focus on
16 this next section, because this next section is
17 talking specifically about something called
18 suspicious orders of controlled substances.

19 Do you see that?

20 A. Yes.

21 Q. Tell us what suspicious orders of
22 controlled substances means?

23 A. Would you like me to read what
24 the regulation states.

1 Q. I'll withdraw the question, and
2 I'll read it, okay.

3 Let's go through this section,
4 and I'm going to follow up and ask you some
5 questions.

6 "The DEA regulations require all
7 distributors to report suspicious orders of
8 controlled substances. Specifically, the
9 regulations state the registrant shall design
10 and operate a system to disclose to the
11 registrant suspicious orders of controlled
12 substances. The registrant shall inform the
13 Field Division Office of the Administration in
14 his area of suspicious orders when discovered by
15 the registrant. Suspicious orders include
16 orders of unusual size, order deviating
17 substantially from a normal pattern and orders
18 of unusual frequency."

19 Do you see that?

20 A. Yes.

21 Q. Okay. So let me see if I can
22 interpret that for the jury.

23 Does that mean that, for example,
24 Teva at all times when they are licensed and

1 selling, for example, opioid-containing
2 products, they have to have what's called a
3 suspicious ordering monitoring program in place?

4 MR. ANDRISANI: Objection, form.

5 THE WITNESS: If they are selling
6 commercial product, yes.

7 BY MR. CARTMELL:

8 Q. Okay. And so the DEA requires
9 and the law requires, according to the
10 regulations, that if Teva, for example, is going
11 to sell these opioids, that they have to put a
12 program in place that is going to effectively
13 identify suspicious orders of opioids, correct?

14 MR. ANDRISANI: Objection to
15 form.

16 THE WITNESS: Yes.

17 BY MR. CARTMELL:

18 Q. In other words, if Teva has
19 customers, and I take it that they do, who
20 contact Teva and they say, "we want to buy or
21 purchase some of your opioid-containing
22 products," that's happens, doesn't it?

23 A. Yes.

24 Q. And the customer says, for

1 example, we want 4,000 pills, is it -- does it
2 happen that way? Do they ask by the pill?

3 A. They don't call me to place an
4 order, so I don't know exactly how they do it,
5 but I assume it's by carton or bottle or NDC. I
6 don't know.

7 Q. Okay. But you're actually
8 responsible as the DEA director at Teva for the
9 suspicious order monitoring program, aren't you?

10 A. I don't physically go and review
11 orders. I am responsible -- ultimately
12 responsible for it, but I don't actually process
13 the orders or investigate them.

14 Q. Okay. So a customer might
15 contact Teva and say we want cartons -- X number
16 of cartons of opioids or bottles of opioids,
17 something like that, fair?

18 A. Yes.

19 MR. ANDRISANI: Objection, form.

20 BY MR. CARTMELL:

21 Q. And this is saying that Teva, as
22 a company, has to monitor those orders from its
23 customers and make sure they're not suspicious,
24 right?

1 MR. ANDRISANI: Objection, form.

2 THE WITNESS: Yes.

3 BY MR. CARTMELL:

4 Q. And if Teva finds that these
5 orders from its customers who are buying these
6 opioids are suspicious, then this says that
7 those orders have to be actually reported to the
8 DEA, correct?

9 MR. ANDRISANI: Objection, form.

10 THE WITNESS: Correct.

11 BY MR. CARTMELL:

12 Q. And if there are suspicious
13 orders from customers to Teva, actually, Teva is
14 not supposed to go and ship those bottles or
15 crates of opioids to the customer, right?

16 MR. ANDRISANI: Objection, form.

17 THE WITNESS: Yes.

18 BY MR. CARTMELL:

19 Q. And this process called
20 suspicious order monitoring is part of the law
21 that says Teva has to have effective safeguards
22 in place to prevent diversion of these opioids
23 or controlled substances, right?

24 MR. ANDRISANI: Objection, form.

1 THE WITNESS: Yes.

2 BY MR. CARTMELL:

3 Q. Okay. Now, Teva also has, as a
4 part of this law and these regulations from the
5 DEA, also has the responsibility to make sure
6 that they investigate if they find suspicious
7 orders from their customers for opioids; is that
8 right?

9 MR. ANDRISANI: Objection, form.

10 THE WITNESS: We investigate
11 orders of interest and report suspicious
12 orders. We have that obligation.

13 BY MR. CARTMELL:

14 Q. That's the duty of Teva to do
15 that, correct?

16 A. Yes.

17 MR. ANDRISANI: Objection to
18 form.

19 BY MR. CARTMELL:

20 Q. And if you go down it states, "It
21 bears emphasis that the foregoing reporting
22 requirement is in addition to, and not in lieu
23 of, the general requirement under 21 U.S.C.
24 823(e) that a distributor maintain effective

1 controls against diversion."

2 Do you see that?

3 A. Yes.

4 Q. "Thus, in addition to reporting
5 all suspicious orders, a distributor has a
6 statutory responsibility to exercise due
7 diligence to avoid filling suspicious orders
8 that might be diverted into other than
9 legitimate medical, scientific and industrial
10 channels."

11 Do you see that?

12 A. Yes.

13 Q. Okay. Let's talk about that due
14 diligence. If I'm reading this correctly, and
15 correct me if I'm wrong, the DEA is saying that
16 Teva, for example, when selling and
17 manufacturing opioids, when they get suspicious
18 orders, they can't just fill those orders, they
19 actually have to investigate and do due
20 diligence to determine or make sure that those
21 opioid pills are not going to be diverted to
22 illegal and illicit places, correct?

23 MR. ANDRISANI: Objection, form.

24 THE WITNESS: If it's deemed

1 suspicious, we have an obligation not to
2 ship.

3 BY MR. CARTMELL:

4 Q. You have an obligation not to
5 ship, but when this talks about due diligence,
6 you also have an obligation to investigate,
7 right?

8 MR. ANDRISANI: Objection, form.

9 THE WITNESS: We investigate any
10 order that's pended in the system, and
11 then if we do our due diligence on that
12 and we determine that it's a suspicious
13 order, then we have to report it.

14 BY MR. CARTMELL:

15 Q. So would you agree with me that
16 it's the responsibility of manufacturers and
17 distributors of opioids, including Teva, and
18 when you were at Cephalon as well, that if they
19 have potentially suspicious order, their duty
20 and responsibility is to investigate that order?

21 A. Yes.

22 Q. Okay. And if the company fails
23 to investigate those potentially suspicious
24 orders, then they have breached their duty and

1 responsibility, correct?

2 MR. ANDRISANI: Objection, form.

3 THE WITNESS: Yes.

4 BY MR. CARTMELL:

5 Q. And if Teva, for instance, has a
6 suspicious order monitoring system or fails to
7 have one that is effective and is actually
8 identifying suspicious orders and they're not
9 investigating those properly, then they will
10 have breached their duty and responsibility,
11 correct?

12 MR. ANDRISANI: Objection, form.

13 THE WITNESS: We have an
14 obligation to make sure that we have an
15 effective system in place.

16 BY MR. CARTMELL:

17 Q. I understand that. My question
18 is a little bit different.

19 If, in fact, Teva, for instance,
20 has a suspicious order monitoring system that is
21 not effective and it isn't adequately
22 identifying suspicious orders, and it's not --
23 and those orders are not adequately being
24 investigated by the company, then Teva would

1 have breached its duties and responsibilities,
2 according to the DEA regulations, correct?

3 MR. ANDRISANI: Objection, form.

4 THE WITNESS: I just want to say
5 that the suspicious order monitoring has
6 been a moving target, and what was
7 effective in one year -- considered
8 effective in one year may not have been
9 considered effective in another year.
10 So, you know, we try to monitor DEA
11 action to see where they're headed with
12 it, because they're basically
13 promulgating rules without writing
14 regulations, updating regulations, so we
15 try to monitor that. What I'm saying is
16 it depends on the time that you were
17 looking at the system in determining
18 whether it was effective or not. But at
19 the time, it should have been effective
20 with the information that we knew at the
21 time.

22 BY MR. CARTMELL:

23 Q. I appreciate that. I'm going to
24 object and move to strike, and I'm going to ask

1 you again and see if I can get an answer to that
2 question.

3 A. Okay.

4 Q. And we'll talk about that in more
5 detail, but, Ms. McGinn, if, in fact, Teva had a
6 suspicious order monitoring program that was
7 ineffective and not adequately identifying
8 suspicious orders and those orders that were
9 pending, when they did identify suspicious
10 orders, were not being adequately investigated,
11 then Teva, according to the regulations of the
12 DEA, would have breached its duty and
13 responsibility, fair?

14 MR. ANDRISANI: Objection, form.

15 THE WITNESS: Yes.

16 BY MR. CARTMELL:

17 Q. Go ahead.

18 A. Yes.

19 Q. I want to go back to Exhibit 7,
20 if you would, and I just want to ask you a
21 question, and I think this gives us a good way
22 to demonstrate for the jury what I'm asking
23 about.

24 Now, this graph shows rising

1 deaths with rising prescriptions, and it's true
2 that the law we just talked about and that the
3 DEA in its letter of 2007 was reiterating is
4 that at all times, for example, from 2000 until
5 2012 that law requiring Teva, for example, to
6 have effective -- effective systems in place to
7 prevent diversion, that was in effect, correct?

8 MR. ANDRISANI: Objection, form.

9 THE WITNESS: Yes.

10 BY MR. CARTMELL:

11 Q. In other words, the law that
12 we're talking about was in effect in 2000 and
13 2001, all the way up to 2008, 2009, all the way
14 to 2012, and it's still in effect today?

15 A. Yes.

16 MR. ANDRISANI: Objection, form.

17 BY MR. CARTMELL:

18 Q. And so at all times, even back in
19 2004, 2003, any times from 2000 on, Teva had
20 that duty to have in effect a suspicious order
21 monitoring program, correct?

22 MR. ANDRISANI: Objection, form.

23 THE WITNESS: Yes.

24 BY MR. CARTMELL:

1 if Teva didn't follow the DEA regulations and
2 have effective systems in place to prevent
3 diversion, they could be a contributor or would
4 be a contributor to the epidemic, correct?

5 MR. ANDRISANI: Objection, form.

6 THE WITNESS: In some way, yes.

7 BY MR. CARTMELL:

8 Q. Okay. And the same is true with
9 other manufacturers of opioids and distributors
10 of opioids; they too could be contributors if
11 they didn't do a good job and have appropriate
12 systems in place to prevent diversion of
13 opioids, correct?

14 MR. ANDRISANI: Objection, form.

15 THE WITNESS: Yes.

16 BY MR. CARTMELL:

17 Q. Okay. And if, in fact, that's
18 the case, then, for example, would you believe,
19 in your opinion, that Teva would be partly
20 responsible for the epidemic?

21 MR. ANDRISANI: Objection, form.

22 THE WITNESS: In some part, yes.

23 MR. CARTMELL: Let's take a
24 break.

1 THE VIDEOGRAPHER: Going off the
2 record at 11:52 a.m.

3 (Luncheon recess.)

4 THE VIDEOGRAPHER: We are back on
5 the record at 12:38.

6 BY MR. CARTMELL:

7 Q. Ms. McGinn, we're back on the
8 record after a lunch break. Are you ready to
9 proceed?

10 A. I am, thank you.

11 Q. Did you have a nice lunch?

12 A. I've had better, but I've had
13 worse too so we're okay.

14 Q. Okay, good.

15 Well, before we broke for lunch,
16 we were talking about, you'll recall, Exhibit 9,
17 which is the Rannizzisi letter that was sent
18 from the Drug Enforcement Administration to,
19 among others, manufacturers and distributors of
20 opioids.

21 You recall our conversation in
22 that regard?

23 A. Yes.

24 Q. Okay. And I don't think I made

1 this point, but I want to, and I don't mean to
2 put words in your mouth, but is it true that
3 these laws that require opioid manufacturers and
4 distributors to have safeguards that are
5 effective in place to prevent diversion of those
6 drugs, those laws are for safety purposes,
7 correct?

8 MR. ANDRISANI: Objection, form.

9 THE WITNESS: I'm sure that's one
10 aspect.

11 BY MR. CARTMELL:

12 Q. In other words, safety of
13 individuals so that the drugs aren't diverted to
14 people who could abuse them or not even abuse
15 them and have overdoses and hospitalizations and
16 deaths, things like that, fair?

17 MR. ANDRISANI: Objection to
18 form.

19 THE WITNESS: It's there for
20 legitimate medical need.

21 BY MR. CARTMELL:

22 Q. Okay. All right. Now, in
23 preparation for your deposition today, did you
24 read the deposition of Mr. Tomkiewicz?

1 A. I did not.

2 Q. Okay. Let's switch gears now,
3 and I want to talk about your time at Teva, and
4 I know we've talked about you started in October
5 approximately of 2011 as an employee of Teva.
6 For a period of time you were working in
7 facilities, manufacturing facilities; is that
8 right?

9 A. I was at the R&D building, yeah.

10 Q. And your compliance jobs during
11 that period of time had to do with compliance
12 with the manufacturing and storage and security
13 of those opioid-containing products; is that
14 right?

15 A. Yes.

16 Q. But at that point for a short
17 period of time, you were not overseeing the
18 suspicious order monitoring program, correct?

19 A. At Cephalon -- which?

20 Q. We're talking about once you got
21 to Teva in 2011.

22 A. Yes.

23 Q. For several months I think you
24 said that you weren't responsible for the

1 didn't know whether or not that meant compliant
2 with DEA regulations?

3 MR. ANDRISANI: Objection, asked
4 and answered.

5 THE WITNESS: What I'm saying is
6 I'm not sure what the person who wrote
7 this intended that to say.

8 BY MR. CARTMELL:

9 Q. Okay. At any rate, whoever wrote
10 this intended to say that the suspicious order
11 monitoring program and the Know your Customer
12 program were putting the company at risk related
13 to DEA sanctions, and that needed to be the
14 company's highest priority to make improvements
15 and close the gaps, correct?

16 MR. ANDRISANI: Objection, form.
17 It misstates what's on the paper.

18 BY MR. CARTMELL:

19 Q. Go ahead.

20 A. It says that it was a risk and we
21 should give it high priority.

22 Q. Okay. Below it says, "DEA will
23 use its authority to revoke and suspend
24 registrations in appropriate cases."

1 You see that?

2 A. Yes.

3 Q. Does that help you to understand
4 where it says under number 2 Know your Customer
5 program if they were talking about not being
6 compliant with the DEA?

7 A. I would assume that that's what
8 they were referencing.

9 Q. Okay. Know your Customer
10 program, tell the jury what that is?

11 A. It's looking into your customers,
12 knowing the background, the officers. It's due
13 diligence on your customer.

14 Q. And we saw the phrase due
15 diligence in the law from Mr. Rannizzisi in his
16 letter, correct?

17 A. I think so.

18 Q. And so the law requires for
19 manufacturers and sellers of opioids like Teva
20 that if they have potentially suspicious orders,
21 they have to do due diligence and actually do
22 investigation of those, correct?

23 A. Yes.

24 Q. And part of that investigation,

1 the DEA has said, is to get to know your
2 customers, correct?

3 MR. ANDRISANI: Objection, form.

4 THE WITNESS: Yes.

5 BY MR. CARTMELL:

6 Q. And do investigation on your
7 customers to see if possibly they're involved in
8 suspicious activity related to controlled
9 substances, correct?

10 MR. ANDRISANI: Objection, form.

11 THE WITNESS: Yes.

12 BY MR. CARTMELL:

13 Q. And what this document says is
14 that at this time, Teva was not compliant in
15 that regard, correct?

16 MR. ANDRISANI: Objection.

17 THE WITNESS: That's what it says
18 here.

19 BY MR. CARTMELL:

20 Q. I want to ask you -- strike that.

21 And then if you go through the
22 next several pages, there is information put
23 together that summarizes, for example, the law
24 that we already went through from the DEA

1 letter, correct?

2 A. Yes.

3 Q. And it -- you had gathered
4 information on what the best practices were for
5 a suspicious order monitoring program, correct?

6 MR. ANDRISANI: Objection as to
7 form with respect to her preparing this.

8 THE WITNESS: This document does
9 contain information about other
10 companies.

11 BY MR. CARTMELL:

12 Q. I'll restate it to hopefully take
13 care of the objection.

14 And then the attachment pages
15 also include information that you or somebody
16 gathered about what the best practices are
17 related to having a suspicious order monitoring
18 program, correct?

19 A. It looks like information that
20 was available. I don't -- I have to look
21 through it to see if it's best practices
22 necessarily. Oh, there is best practices.

23 Q. You see that?

24 A. Yes.

1 Q. This is Exhibit 24. So what
2 we've marked here, again, starting at the first
3 e-mail is an October 16, 2017 e-mail from you to
4 Jeffrey Zerillo. The subject is 60 Minutes.

5 Who is Jeffrey Zerillo at the
6 time? Was he with your company?

7 A. Yes, he was my supervisor.

8 Q. And what was his position?

9 A. He's vice president, supply chain
10 management - America's region.

11 Q. Is he your immediate person above
12 you?

13 A. He was my immediate supervisor.

14 Q. And is he there right now with
15 Teva?

16 A. No.

17 Q. And has he left the company?

18 A. Yes.

19 Q. Okay. And do you know when he
20 left?

21 A. Recently, I would say it was
22 around the April 2018 time period.

23 Q. And he came from Purdue, correct?

24 A. He was part of the Actavis

1 acquisition. He came with Actavis.

2 Q. Okay. But, originally, before
3 joining Actavis, he was with Purdue?

4 A. I believe so.

5 Q. Okay. And you write here
6 regarding 60 Minutes -- do you recall watching a
7 60 Minutes segment on opioids?

8 A. I do.

9 Q. Okay. And can you briefly
10 describe for me what the segment was that you
11 saw on 60 Minutes?

12 A. It was -- if I remember
13 correctly, it was a interview with Joe
14 Rannizzisi talking about suspicious orders or
15 the opioid epidemic in general.

16 Q. And we heard about Mr. Rannizzisi
17 earlier. He had written those letters back in
18 2006 and '07, correct?

19 A. Yes.

20 Q. And you had those letters back
21 around that time frame, right?

22 A. Yes.

23 Q. And you write here to
24 Mr. Zerillo, "Did you see this last night? My

1 first thought was that Joe Rannizzisi has lost
2 his mind and the second was that it was a very
3 one-sided story."

4 Is that correct?

5 A. That is correct.

6 Q. And why was it one-sided?

7 A. It only presented information
8 from -- about pharmaceutical industry and not
9 the part that doctors played in the whole opioid
10 epidemic.

11 Q. And what was the part about the
12 -- you said the pharmaceutical industry. What
13 was the part about the pharmaceutical industry
14 that he was discussing on 60 Minutes?

15 A. My recollection is that he blamed
16 the entire opioid epidemic on pharmaceutical
17 companies.

18 Q. And what did he say they did
19 wrong?

20 MR. ANDRISANI: Objection.

21 BY MR. CRAWFORD:

22 Q. If you recall.

23 A. I don't remember exactly what he
24 said.

1 Q. And you say he has lost his mind.

2 What does that mean he has lost his mind?

3 A. I don't remember why I said that.

4 I just thought it was a very one-sided view and

5 that he basically blamed everything on the

6 pharmaceutical industry.

7 Q. Okay. And then Mr. Zerillo

8 responds back, "LOL," is that lots of laughing,

9 is that what that stands for?

10 A. You'd have to ask him, but I

11 assume so.

12 Q. And it says, "Joe just made a lot

13 of friends?"

14 Right?

15 A. Yes.

16 Q. And you respond to him, "Right?

17 I guess he's not interested in working for

18 industry."

19 Correct?

20 A. Yes.

21 Q. What do you mean he's not

22 interested in working for industry?

23 A. That he would not be able to work

24 for a pharmaceutical company.

1 Q. But he works for the DEA. Why
2 would he work --

3 A. He wasn't --

4 Q. -- for a pharmaceutical company?

5 A. He wasn't working for DEA at the
6 time of this interview.

7 Q. Is it your experience that a lot
8 of people who leave the DEA go work in the
9 industry?

10 MR. ANDRISANI: Objection.

11 THE WITNESS: Some do.

12 MR. CRAWFORD: Next we'll go to
13 Exhibit 25.

14 (Document marked for
15 identification as McGinn Deposition
16 Exhibit No. 25.)

17 MS. ROLLINS: Counsel, I think
18 your exhibit numbers -- i think there
19 might have been two 23s and two 24s?

20 MR. CRAWFORD: I think we're
21 sequential, okay. Yeah, they're great.
22 Thank you, though.

23 MS. HUDNALL: 21 and 22 were out
24 of order.

1 MR. CRAWFORD: Thank you.

2 BY MR. CRAWFORD:

3 Q. You testified earlier a little
4 bit about industry groups including ADIWG, is
5 that a group that at one point Teva belonged to?

6 A. It was a group that Actavis
7 belonged to, and Tom was informing me and making
8 an introduction about the group, and I attended
9 a couple of phone calls with that group.

10 Q. And did Teva ever join that
11 group?

12 A. I don't know if there was any
13 joining. We attended some of the discussions
14 that they had.

15 Q. And what was the purpose of the
16 group?

17 A. I don't recall. I mean, it was a
18 working group to discuss DEA issues.

19 Q. And let's go again to the bottom
20 of the e-mail. It's from Tom Napoli to you
21 dated February 8th, 2016. Subject is
22 Anti-Diversity Industry Working Group. That's
23 the ADIWG, correct?

24 A. It's anti-diversion, not